

HOUSE BILL REPORT

SSB 5994

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to limiting the location and number of house-banked card rooms.

Brief Description: Limiting the number and location of house-banked card rooms.

Sponsors: Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Prentice and Rasmussen).

Brief History:

Committee Activity:

Commerce & Labor: 3/28/05, 3/31/05 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Prohibits the Washington State Gambling Commission from issuing or renewing a license to engage in house-banked card games except in locations specified in licenses approved as of March 10, 2005, or pending by that date.
- Allows a licensee authorized to engage in house-banked card games to continue only with the activities authorized under a license approved as of March 10, 2005, or pending on that date, unless on the license renewal date the applicable local jurisdiction has absolutely prohibited that gambling activity.
- Specifies that local ordinances prohibiting all house-banked card games as of a specified date are in compliance with the requirement to prohibit "absolutely," and that local ordinances allowing any house-banked card games to continue for an indefinite period are not in compliance with the requirement to prohibit "absolutely," and are null and void.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 4 members: Representatives Conway, Chair; Wood, Vice Chair; Hudgins and McCoy.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; and Crouse.

Staff: Chris Cordes (786-7103).

Background:

Under the Washington Gambling Act of 1973 (Act), the Washington State Gambling Commission (Commission) has exclusive authority to license and regulate gambling activities, including house-banked card games. The Act preempts local licensing and regulatory authority over gambling, but does allow a city or county to prohibit absolutely any or all gambling activities within its jurisdiction. A license issued by the Commission allows the licensee to engage in the licensed gambling activity throughout the state, except in a city or county that has absolutely prohibited the gambling activities for which the license is issued.

The Commission issues licenses for a one-year period and may not deny a license to a qualified applicant in an effort to limit the number of licenses. If ownership of a gambling business changes, the new owner must submit a license application and obtain license approval from the Commission. The previous owner's license becomes invalid on the sale of a gambling business.

According to information compiled by the Commission, 65 local jurisdictions have prohibitions or other limits on gambling activities as of February 17, 2005. In 17 jurisdictions, a ban on card rooms also includes allowances for existing card rooms or provisions to phase out card rooms. Seven jurisdictions include some kind of zoning restrictions on gambling activities.

In June 2003, the Washington Court of Appeals, Division I, decided a case involving an ordinance adopted by the City of Edmonds. This ordinance banned card rooms and phased out existing card rooms. The Court upheld the ban, but also found that the provisions to phase out existing card rooms were preempted by state law. The Court explained that the city was authorized under state law to prohibit absolutely a gambling activity, but that it was not authorized to regulate such activity by phasing it out. The card room owner also claimed a vested right under a building permit that had been granted by the city before adopting its card room ban. The Court held that any claim to a vested right was extinguished when the city adopted its card room ban. A second case decided by this court in 2004, upheld the Pierce County ordinance banning card rooms beginning August 2, 2002, finding no unconstitutional taking of property or denial of due process.

Summary of Amended Bill:

The authority of a licensee licensed by the Washington State Gambling Commission (Commission) to engage in the gambling activity for which the license was issued is subject to the following additional restrictions:

- The Commission is prohibited from issuing or renewing a license to engage in house-banked card games except in a location specified in a license approved to conduct such games as of March 10, 2005, or pending by that date.

- A licensee authorized to engage in house-banked card games may continue only with the activities authorized under a license approved as of March 10, 2005, or pending by that date, and may not increase the number of licensed tables. However, this authority does not apply if, on the license renewal date, the applicable local jurisdiction has an ordinance in effect that prohibits that gambling activity within its jurisdiction.

A local ordinance prohibiting all house-banked card games as of the ordinance's effective date, or other specified date, is deemed to be in compliance with the statutory requirement to prohibit "absolutely." If a local ordinance allows any house-banked card games to continue for an indefinite period, the ordinance is deemed not to be in compliance with the statutory requirement to prohibit "absolutely," and is null and void.

Amended Bill Compared to Substitute Bill:

The amended bill extends from February 1, 2005, to March 10, 2005, the date by which a gambling license to engage in house-banked card games must either be in effect or pending for a location, in order to avoid the prohibition on issuing or renewing the license. The amended bill also adds that local ordinances prohibiting all house-banked card games as of a specified date are deemed to be in compliance with the statutory requirement to prohibit "absolutely." Local ordinances allowing any house-banked card games to continue for an indefinite period are deemed not to be in compliance with the statutory requirement to prohibit "absolutely," and are null and void.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: (In support) The bills in past years that have attempted to address the casino issue with zoning approaches have not been able to pass because a compromise could not be reached. The approach in this bill allows for existing bans and keeps the existing house-banked card room locations. Some local jurisdictions have bans that phase out existing establishments over several years. There is a question whether the jurisdiction would have to revisit the decision made in the current ordinance, but the bill recognizes that phase-out approach. Some jurisdictions have a ban that recognizes exceptions for existing businesses. These jurisdictions want to keep the existing businesses. This bill recognizes the good corporate citizens that exist now, without allowing expansions.

(Neutral) One impact of the bill is to increase the value of certain gambling licenses. The bill freezes the locations for house-banked card rooms, and also the number of tables these locations may have. The Commission could retain its authority over wagering limits.

Testimony Against: Limiting tables could cause problems in the future when circumstances change. There could also be a problem if the location of an existing establishment is annexed

into another jurisdiction. The bill's restrictions could foster government abuse and corruption because the establishment could not move its location and must, therefore, put up with the abuse. What is really needed to resolve the problem is a zoning bill.

Persons Testifying: (In support) Jim Justin, Association of Washington Cities; Randy Lewis, City of Tacoma; Carolyn Robertson, City of Auburn; and Marcia Schwendiman.

(Neutral) Rick Day, Washington State Gambling Commission.

(Opposed) Michael Marquess, Casino Caribbean.

Persons Signed In To Testify But Not Testifying: None.